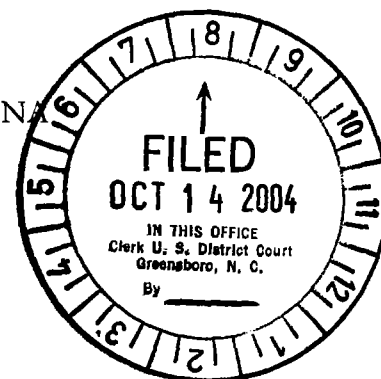


44.

4/13

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



WILLIAM A. NEWBY,

Plaintiff,

v.

CHRISTINE TODD WHITMAN,  
Administrator, United States  
Environmental Protection Agency

Defendant.

1:02CV00841

ORDER AND JUDGMENT

BEATY, District Judge.

For the reasons stated in the Memorandum Opinion filed contemporaneously herewith,

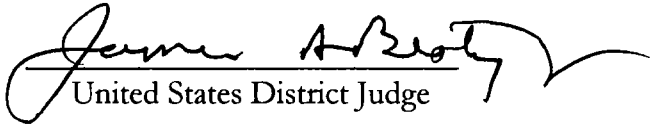
IT IS HEREBY ORDERED that Defendant's Motion to Dismiss [Document #15] is GRANTED with respect to the following claims: (1) allegations regarding Plaintiff's encounter with Supervisor Ralph Kirby in 1992; (2) allegations that in January 1996, his supervisor threatened to restrict his bathroom breaks; (3) allegations regarding disability discrimination or age discrimination based on a warning letter for failing to read his e-mails and similar issues following his eye surgery; and (4) allegations regarding disability discrimination or age discrimination based on Defendant's failure to promote him to the GS-12 level; and all of these claims are DISMISSED with prejudice.

IT IS FURTHER ORDERED that, as a preliminary matter and subject to the Court's ensuing ruling on Defendant's Motion for Summary Judgment, Defendant's Motion to Dismiss [Document #15] is DENIED with respect to Plaintiff's remaining claims, that is: (1) Disability discrimination based on EPA's refusal to reassign Plaintiff; (2) Age discrimination based on EPA's refusal to reassign Plaintiff; and (3) Retaliation based on EPA's refusal to promote Plaintiff to the GS-12 level, Director

Brady's alleged threat to terminate Plaintiff, Director Brady's letters contesting Plaintiff's Worker's Compensation claim, and the January 7, 1999 letter of warning for failing to timely respond to his e-mail.

IT IS FURTHER ORDERED, however, that Defendant's Motion for Summary Judgment [Document #15] is GRANTED with respect to all of these remaining claims, that is: (1) Disability discrimination based on EPA's refusal to reassign Plaintiff; (2) Age discrimination based on EPA's refusal to reassign Plaintiff; and (3) Retaliation based on EPA's refusal to promote Plaintiff to the GS-12 level, Director Brady's alleged threat to terminate Plaintiff, Director Brady's letters contesting Plaintiff's Worker's Compensation claim, and the January 7, 1999 letter of warning for failing to timely respond to e-mail; and all of Plaintiff's claims are hereby DISMISSED with prejudice.

This, the 14<sup>th</sup> day of October, 2004.

  
United States District Judge